

**Facsimile Transmission**

North Point, 901 Lakeside Avenue • Cleveland, Ohio 44114-1190 • (216) 586-3939

Facsimile: (216) 579-0212

lwcooper@jonesday.com

**RECEIVED**  
**CENTRAL FAX CENTER****NOV 28 2006****November 28, 2006**

Please hand deliver the following facsimile to:

**Name: Central Delivery – Mail Stop AF****Facsimile No.: 571 273 8300****Company: U.S. Patent and Trademark Office****Number of pages (including this page): 4****Telephone No.:****From: H. Duane Switzer****Send Copies To:****Direct Telephone No.: 216/586-7283****JP No.: 992104**☐ **Copies distributed**Operator's initials**CAM No.: 427600-700087****Re: USSN 10/729,739**

**NOTICE:** This communication is intended to be confidential to the person to whom it is addressed, and it is subject to copyright protection. If you are not the intended recipient or the agent of the intended recipient or if you are unable to deliver this communication to the intended recipient, please do not read, copy or use this communication or show it to any other person, but notify the sender immediately by telephone at the direct telephone number noted above.

**Message:****Attached for filing is a Request for Clarification regarding Serial No. 10/729,739, filed 12/5/2003. (4 pp.)****CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the Central Delivery, U.S. Patent Office (Fax No. 571-273-8300) on 11/28/06.

*H. Duane Switzer*  
H. Duane Switzer

Please call us immediately if the facsimile you receive is incomplete or illegible. Please ask for the facsimile operator.

ATLANTA • BEIJING • BRUSSELS • CHICAGO • CLEVELAND • COLUMBUS • DALLAS • FRANKFURT • HONG KONG • HOUSTON  
IRVINE • LONDON • LOS ANGELES • MADRID • MENLO PARK • MILAN • MOSCOW • MUNICH • NEW DELHI • NEW YORK  
PARIS • PITTSBURGH • SAN DIEGO • SAN FRANCISCO • SHANGHAI • SINGAPORE • SYDNEY • TAIPEI • TOKYO • WASHINGTON

RECEIVED  
CENTRAL FAX CENTER

NOV 28 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. : 10/729,739 Confirmation No. 3999  
Applicants : Eric G. Hull et al.  
Filed : December 5, 2003  
Title : FITTING FOR ENT TUBING  
Art Unit : 3677  
Examiner : Ruth C. Rodriguez  
Last Office Action : November 21, 2006  
Attorney Docket No. : 427600700087  
Customer No. : 24325

REQUEST FOR CLARIFICATION

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Final Rejection dated October 18, 2006 objects to claims 1 - 4, 7 - 14 and 17 - 35 on grounds that the term "ENT tube" is indefinite because its meaning is unclear.

In the Amendment filed August 4, 2006, every occurrence of the term "ENT" in the claims was replaced with "electrical nonmetallic tube" or "electrical nonmetallic tubing".

Therefore, the reason and basis for the Examiner's objection is not understood.

FAX CERTIFICATION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office to the attention of the Commissioner For Patents at Fax. No. 571-273-8300 on November 28, 2006.

Typed name of the person signing this certificate: H. Duane Switzer, Reg. No. 22,431

Signature: H. Duane SwitzerDate: November 28, 2006

1 of 3

CLI-1471442v1

Appln. No. 10/729,739  
Amdt. dated November 28, 2006  
Reply to Office Action of November 21, 2006

The objection concerning the term "ENT" raises the disturbing question as to whether the Examiner mistakenly examined the wrong claims in the Final Rejection, and whether the amendment of August 4, 2006 was even considered.

The Examiner is requested to withdraw the objection concerning the term "ENT", or to provide a thorough explanation of the basis for the objection.

The Final Rejection dated October 18, 2006, rejects claims 9, 17 and 24 under 35 U.S.C. §103(a) on U.S. Patent No. 4,686,738 to Bladh taken with U.S. Patent No. 6,194,659 to Cornu.

The Examiner's explanation of the rejection refers to providing Bladh with the Cornu teeth 19. However, none of claims 9, 17 or 24 recite teeth, and that raises the question as to whether this rejection was intended to be made for claims 11, 18 and 25 which do recite teeth.

The rejection on Bladh taken with Cornu also refers to claim recitations of teeth on "at least one generally opposed pair of fingers". However, there are no claims with such a recitation. Instead, the claims recite more than three fingers, and "only two generally opposed ones of said teeth having radially inwardly extending teeth thereon". Cornu does not disclose or suggest teeth on only two opposed ones of the fingers. The Examiner is requested to reject the claims on the basis of what is recited rather than on fabricated recitations.


The Examiner is requested to explain the reason for the rejection of claims 9, 17 and 24 on Bladh taken with Cornu when none of these claims recite fingers having teeth.

The Request for Withdrawal of the Premature Final Rejection filed October 31, 2006, set forth clear reasons why the Final Rejection fails to comply with the approved practice set forth in MPEP §706.07. The Examiner's summary dismissal of this request in the Advisory Action of November 21, 2006, is inappropriate.

Appln. No. 10/729,739  
Amdt. dated November 28, 2006  
Reply to Office Action of November 21, 2006

Applicants are entitled to know the basis for the Final Rejection on newly cited art when it is plan that the newly cited art was not required by any amendments to the claims. If applicants wish to exercise their right to petition the Commissioner under 36 CFR §1.181(3), they are entitled to know the basis for the Examiner's apparent deviation from the approved practice set forth in MPEP §706.07, and the Examiner's reasoning and contentions as to why the Final Rejection on newly cited art is proper. The Examiner's silence on this point both in the Final Rejection and in the Request for Reconsideration suggest that there is no justifiable basis for the Final Rejection on newly cited art.

Respectfully submitted,

  
H. Duane Switzer  
Reg. No. 22,431  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, OH 44114-1190  
216-586-7283

Dated: November 28, 2006